

DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED CHANGES IN THE REGULATIONS
Title 3, California Code of Regulations
Section 3423(b), Oriental Fruit Fly Interior Quarantine
INITIAL STATEMENT OF REASONS/
POLICY STATEMENT OVERVIEW

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests.

Specific Purpose and Factual Basis

The specific purpose of Section 3423 is to provide for the State to regulate the movement and possible carriers of Oriental fruit fly from the area under quarantine to prevent the artificial spread of the fly to noninfested areas to protect California's agricultural industry.

The factual basis for the determination by the Department that amendment of Section 3423 is necessary is as follows:

The Secretary may establish, maintain, and enforce those regulations he deems necessary to protect the agricultural industry from pests and to exterminate or prevent the spread of pests. The Secretary has determined, that it is no longer necessary to maintain and enforce these regulations based upon the following:

Adult Oriental fruit flies were trapped in the County of San Bernardino. On August 8, 2006, two adult male Oriental fruit flies were taken from traps in the Rialto area of San Bernardino County. On August 29, 2006, one adult mated female Oriental fruit fly was taken from a trap in the Rialto area of San Bernardino County. The detection of a mated

adult female Oriental fruit fly was indicative of an incipient infestation of Oriental fruit fly in the Rialto area of San Bernardino County.

Oriental fruit fly has been established in Hawaii, since 1946, where it is a major pest of agriculture, particularly on mangoes, avocados and papayas. Maggots have been found in over 125 kinds of fruits and vegetables in Hawaii alone. The introduction of this pest threatens numerous crops in California, including apples, apricots, avocados, cherries, citrus, figs, nectarines, peaches, pears, plums and tomatoes. It has been estimated that the cost of not eradicating Oriental fruit fly in California would range from \$44 to \$176 million in crop losses, additional pesticide use, and quarantine requirements. Oriental fruit fly has been introduced into California a number of times, through the movement of prohibited host fruits and vegetables into the State, and has been eradicated.

This amendment of Section 3423(b) removed approximately 65 square miles of the Rialto area of San Bernardino County from the area under quarantine for Oriental fruit fly. The fly was eradicated from this area on December 11, 2006; therefore, it is no longer necessary to regulate the movement of hosts and possible carriers of the fly from this area. It was necessary to amend this regulation on an emergency basis to remove the quarantine on the Rialto area and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Commercially produced host crops, if the restrictions were continued, would have to be treated or would not be allowed movement from the area. Also if the restrictions were continued, those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Therefore, it was necessary to immediately amend this regulation to remove the Rialto area of San Bernardino County as an emergency action.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Sections 3423 does not

impose a mandate on local agencies or school districts, except that an agricultural commissioner of a county under quarantine has a duty to enforce Section 3423. No reimbursement is required for Section 3423 under Section 177561 of the Government Code because this amendment removes the portion of San Bernardino County that was in the area under quarantine from the regulation; therefore, enforcement is no longer necessary. There are no mandated costs associated with the removal of this area (Rialto) from the regulation.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has determined that the proposed action will not have a significant adverse economic impact on housing costs or California businesses, including the ability of California businesses to compete with businesses in other states. The Department's determination that this action will not have a significant adverse economic impact on businesses was based on the following:

The emergency amendment of Section 3423 (b) removed any requirements or restrictions on businesses in the Rialto area of San Bernardino County and that should have a positive impact on businesses in that area. The amendment of this regulation removed the State authority for quarantine activities and any required reporting, record keeping, or compliance by businesses in the area.

Assessment

The Department has made an assessment that repealing these regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the amendment of Section 3423(b):

Memorandum of December 11, 2006 to John Connell, from Debby Tanouye.